UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,080	07/25/2001	James J. Fitzgibbon	69789	6492

22242	7590	04/19/2006

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER
BANGACHON, WILLIAM L

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/915,080	FITZGIBBON ET AL.
	Examiner	Art Unit	
	William Bangachon	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11,23-37,39 and 40* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,23-37,39 and 40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date 9/19/05. 8/22/02.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Examiner's comments*.

DETAILED ACTION

Election/Restrictions

1.   Applicant's election without traverse of claims 1-6, 7-11, 23-25, 26-29, 30-37, and

39-40 (Group I), in the reply filed on 1/17/2006 is acknowledged.

Specification

2.   The specification is objected to as failing to provide proper antecedent basis for

the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction

of the following is required:

Claim 1 recites the limitation **"a security code including a portion**

representing user interaction with the security code source unit" is not adequately

provided in the specification.

Claim Rejections - 35 USC § 112

3.   Claims 1 and 7-8 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

With regards to claim 1, it is unclear on how the security code is generated (i.e.

whether the keypad or voice analysis apparatus generates the security code).

In claim 7, the speaker dependent and independent voice analysis arrangement

lacks structural support.

Claim 8 recites the limitations **"the barrier movement apparatus"** in page 42,

lines 24-25, and **"the security signal"** in line 26. There is insufficient antecedent basis

for these limitations in the claim. Further, it is unclear on whether the apparatus recited

in line 22 is the same as the security control apparatus.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.

    4.   Considering objective evidence present in the application indicating
          obviousness or nonobviousness.

7.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the Examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

8.   Claims 1, 3-6, 10, 30, and 39-40, are rejected under 35 U.S.C. 102(b) as being

anticipated by USP 5,280,527 {hereinafter "Gullman et al"}.

      In claims 1, 30, and 39, Gullman et al teach of a security control apparatus {see

whole document} comprising:

      a security device 10 (i.e. electronic gate/lock) {paragraph bridging cols. 2 and 3};

      a control apparatus 12 (i.e. access device) responsive to security codes for

enabling and disabling the security device {col. 3, lines 19-35+};

      a voiceprint/speech activated controller unit 14 (i.e. security code source unit) for

communicating a token (i.e. security codes) to the control apparatus 12, as shown in

figure 1, the security code source unit having a user controlled keypad and a voiceprint

analysis apparatus 14, as shown in figure 2, and including circuitry responsive to the

voiceprint analysis apparatus 14 for communicating to the control apparatus a security code including a portion (i.e. user input challenge code) representing user interaction with the security code source unit {col. 2, lines 40-47; paragraph bridging cols. 3 and 4}.

In claims 3 and 5-6, the security code source unit comprises memory {col. 4, lines 44-49} for storing a pass code (i.e. user input challenge code) entered by a user in association with representations of speech generated by the voice analysis apparatus {col. 2, lines 40-47+; col. 6, lines 30-45+}.

In claim 4, the circuitry for communicating responds to predetermined comparison characteristics between a stored speech representation and a spoken speech representation for communicating a security code {col. 5, lines 60-65}.

In claim 10, biometric samples are obtained and stored as templates for a single or multiple users {Gullman, col. 5, lines 57-61+}.

Claim 40 recites a method for practicing the apparatus of claim 1 and therefore rejected for the same reasons, further comprising the step of storing a plurality of representations of a biometric characteristics of one or more persons, such as programming the security apparatus 14 during an enroll mode {col. 5, lines 57-65+}.

9.   Claims 2, 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,280,527 {Gullman et al} in view of USP 6,356,868 {hereinafter "Yuschik et al"}.

With regards to claims 2 and 31, Gullman do not disclose a speaker dependent and independent analysis arrangement. In this case, Yuschik is relied upon to teach of the two types of speech recognition technology wherein the first is speaker-independent

and the second is speaker-dependent {Yuschik, col. 2, lines 32+}. Yuschik suggests

that it is desirable to use the two types of technology that identifies and verifies a user

from a single utterance and at the same time, permit multiple users to have identical

passwords {col. 3, lines 1-4+}. The systems of Gullman and Yuschik are analogous art

because first, they are from the same field of endeavor, biometric security system. And

second, they are from the same problem solving area, as follows: Gullman is

concerned with the use of personal identification numbers because a legitimate user

must remember a given password, which can be burdensome for some users that have

to remember too many passwords {Gullman, col. 1, lines 46-56}. Yuschik teaches that

it is advantageous to use a voiceprint system over PIN number system for gaining

access, because it is quicker and more convenient instead of having to punch codes,

and more secure because a person's voice is unique and cannot be stolen {Yuschik,

col. 1, lines 28-50}. Therefore, at the time of the invention, it would have been obvious

to one of ordinary skill in the art to have a speaker-independent and speaker-dependent

arrangement in the voice recognition system of Gullman, as claimed, because, as

evidenced by Yuschik, it allows the voice recognition system of Gullman to verify a user

from a single utterance and at the same time, permit multiple users to have identical

passwords.

In claims 32-34, the security code source unit comprises memory {Gullman, col.

4, lines 44-49} for storing a pass code (i.e. user input challenge code) entered by a user

in association with representations of speech generated by the voice analysis apparatus

{Gullman, col. 2, lines 40-47+; col. 6, lines 30-45+}.

With regards to claims 35-37, Gullman teach of storing one or multiple templates of biometric samples of a single or multiple users {col. 5, lines 57-61}. The biometric samples are combined with a fixed code. This allows the control apparatus to permit full or limited entry based upon the level of authorization assigned to a given user {col. 4, lines 29-33}. Obviously, the control apparatus can be programmed to control the type of access or transactions allowed for such fixed code {col. 6, lines 43-45}, such as having temporary user specific portions which are intended to be erased upon the occurrence of an event, user specific portions erased in response to the passage of a predetermined amount of time, or user specific portions erased in response to a predetermined number of accesses, to save memory space, to one of ordinary skill in the art.

10.   Claims 23-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,280,527 {Gullman et al} and USP 6,356,868 {hereinafter "Yuschik et al"}, and further in view of USP 6,161,005 {hereinafter "Pinzon"}.

Claims 23 and 25-26 recite the combination of claims 1 and 2, and therefore rejected for the same reasons. Although, Gullman do not disclose **"a motor for operating the barrier"**, these claimed features would be obvious in the system of Gullman to one of ordinary skill in the art because, as evidenced by Pinzon, all electronic door locking mechanisms have in common a motor for causing a mechanical locking member to move to a locking or unlocking position {Pinzon, col. 4, lines 34-45}.

In claims 24 and 27-29, although Gullman in view of Pinzon and Yuschik do not disclose that **"the speaker independent voice analysis apparatus is enabled for a predetermined period of time after the barrier control apparatus is controlled to move the barrier"**, it would have been obvious to program the control apparatus 10 of Gullman to control the type of access or transactions {Gullman, col. 6, lines 42-45} as claimed, because it saves energy as compared to being enabled all the time, to one of ordinary skill in the art.

11.   Claims 1-6, 7-11, 23-25, 26-29, 30-37, and 39-40, are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0018478 {hereinafter "Mays"} in view of USP 5,280,527 {Gullman et al}.

In claims 1, 4-6, and 39, Mays teaches of a speech activatable door operator system 10 (i.e. security control apparatus) comprising:

a barrier or door 20 (i.e. security device);

a base controller 36 (i.e. control apparatus) responsive to security codes for enabling and disabling the security device 20;

a speech activated controller unit 38, 46, 48, 50 (i.e. security code source unit) for communicating security codes to the control apparatus 36, as shown in figure 1, the security code source unit having a user controlled keypad 56 and a voice analysis apparatus 53, as shown in figure 2, and including circuitry responsive to the voice analysis apparatus 53, as shown in figure 3, for communicating to the control apparatus a security code [0021]-[0022]+.

Although Mays discloses that the keypad 56 may be used to condition the speech activation unit 53 [0021], Mays do not disclose expressly **"a security code including a portion representing user interaction with the security code source unit"**. Gullman et al, teach of a security token (analogous to the claimed security code) that incorporates biometric information (voiceprint) of a user with user input challenge code entered using either a keypad or by voice {Gullman, col. 2, lines 40-47+; paragraph bridging cols. 3 and 4}. Gullman suggests that combining a token {i.e. with biometric information is advantageous in that tokens provide security during transmission, wherein the biometric information is used as an ID while a token provides transmission security {Gullman, col. 1, lines 32-45}. The systems of Mays and Gullman et al are analogous art because they are from the same field of endeavor, secured biometric access systems. At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine tokens with the speech activated door operator system of Mays, as claimed, because tokens advantageously provide additional security during transmission, as taught by Gullman.

In claim 2, the voice analysis apparatus comprises a speaker dependent voice analysis arrangement and a speaker independent voice analysis arrangement {Mays, [0008], [0023]+}.

In claims 3, 10, and 31-35, the security code source unit comprises memory/template {Gullman, col. 4, lines 44-49} for storing a pass code (i.e. user input challenge code) entered by a user in association with representations of speech

generated by the voice analysis apparatus {col. 2, lines 40-47+; col. 6, lines 30-45+}.

Alternatively, multiple templates for multiple users are stored {Gullman, lines 60-65}.

Claims 7-9, 11, 23-25, 30 recites the combination of claims 1 and 2 and therefore rejected for the same reasons.

In claim 24, the speech activation unit 53 is enabled for a predetermined period of time until either the battery runs out or the function is changed via the keypad switch {Mays, [0020]}.

Claims 26-29 recite the combination of claims 1, 2, and 24, and therefore rejected for the same reasons, further comprising a drive motor 30 for operating the barrier [0017].

With regards to claims 35-37, Gullman teach of storing one or multiple templates of biometric samples of a single or multiple users {col. 5, lines 57-61}. The biometric samples are combined with a fixed code. This allows the control apparatus to permit full or limited entry based upon the level of authorization assigned to a given user {col. 4, lines 29-33}. Obviously, the control apparatus can be programmed to control the type of access or transactions allowed for such fixed code {col. 6, lines 43-45}, such as having temporary user specific portions which are intended to be erased upon the occurrence of an event, user specific portions erased in response to the passage of a predetermined amount of time, or user specific portions erased in response to a predetermined number of accesses, to save memory space, to one of ordinary skill in the art.

Claim 40 recites a method for practicing the apparatus of claims 1-3 and

therefore rejected for the same reasons.

Conclusion

12.   Please note that the Examiner's supervisor and art unit has been changed to

2612.

Office Contact Information

13.   Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to William Bangachon whose telephone number is **(571)-**

272-3065. The Examiner can normally be reached on Monday to Thursday, 8:30 AM to

4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Wendy Garber can be reached on **(571)-272-7308**. The fax phone numbers

for the organization where this application or proceeding is assigned is **571-273-8300**

for regular and After Final formal communications. The Examiner's fax number is **(571)-**

273-3065 for informal communications.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system.   Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

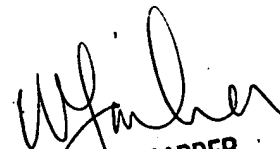For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-305-

4700.

William L Bangachon
Examiner
Art Unit 2635

April 17, 2006

WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600